

Chapter 12.20

TREES AND SHRUBBERY

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12.20.010 Statement of Intent.

The selection, planting, maintenance, and removal of trees and ornamental plantings along public ways within the City of Lincoln substantially affect such matters as pedestrian and vehicle safety, the location and maintenance of utility services, tree maintenance costs, the incidence of tree diseases, and the general appearance of the cityscape; therefore, it is hereby found and determined that such selection, planting, maintenance, and removal are matters of city-wide concern over which the city must exercise the control set forth in this chapter. (Ord. 18168 §1; April 28, 2003; P.C. §12.20.005; Ord. 10129 §1; March 22, 1971).

12.20.020 Master Street Tree Plan; Director Defined.

The Director shall prepare and maintain a "Master Street Tree Plan" for the city, showing thereon the genus, species, and variety of trees which may hereafter be planted in or upon any street, parkway, sidewalk space, or other public way within the city, and all such tree planting shall conform to such plan. A current copy of such plan shall be made available for inspection by the public at the office of the Director.

The term "Director" whenever used in this chapter shall mean the Director of Parks and Recreation of the City of Lincoln, Nebraska, or his authorized deputy, agent, or representative. (P.C. §12.20.007; Ord. 10129 §2; March 22, 1971).

12.20.021 Landscape Plantings Within the Sidewalk Space.

The space between the lot line and existing or projected curb line on each side of every street in the city (hereafter known as the sidewalk space) shall be used only for the location of approved street trees in accordance with Section 12.20.020, turf grass, shrubs, perennial and annual flowering plants, ornamental

grasses, vegetable gardens, and ground covers. Shredded wood mulch may be placed around street trees and landscape plantings within the sidewalk space. (Ord. 18168 §2; April 28, 2003).

12.20.025 Street Trees on Private Property.

The Director may, subject to approval of the Mayor, request permission to enter upon and plant one or more street trees on property adjacent to public right-of-way pursuant to an easement agreement when there is insufficient land available for the planting and proper growth of the street tree or trees in the public right-of-way. Such easement agreement shall be conditioned upon the owner of the property agreeing to assume ownership and liability for the street tree and the responsibility for its proper maintenance which shall include watering as often as required by necessity, cultivating, mulching, and trimming, or its removal if dead, dying, diseased, or hazardous.

The determination of insufficiency of available land shall be based upon existing roadway width, except in those cases where design work is underway or completed for a roadway project to be constructed within the next year, in which case the new curb location shall control. The Parks and Recreation Department shall prepare an annual report each January for the City Council detailing where trees have been planted on private property and the reasons for such plantings. (Ord. 17741 §1; October 9, 2000).

12.20.030 Maintenance of Street Trees.

Except as may otherwise be provided by the City Council for council-created street tree planting districts, the trimming, spraying, removing, and destroying of all trees now existing, the selecting, planting, trimming, spraying, removing, and destroying of all street trees hereafter planted in or upon any street, parkway, sidewalk space, or other public way within the city, shall be done by and at the expense of the city and at its discretion and by no other person; provided, the Director may, in accordance with the provisions of this chapter, issue a permit to any applicant therefor, allowing such person to plant, remove, or destroy any such tree. (Ord. 18168 §3; April 28, 2003; P.C. §12.20.010; Ord. 10129 §3; March 22, 1971; Ord. 3489 §30-601, as amended by Ord. 7145; May 2, 1960).

12.20.035 Maintenance of Landscape Plantings Within the Sidewalk Space.

The owner of the property abutting the sidewalk space shall be responsible for the routine care of such landscape plantings within the sidewalk space, including watering, mowing, raking and disposing of leaves, twigs, and other debris, weed control in accordance with Chapter 8.46, and the trimming and pruning of shrubs and other ornamental landscape plantings. (Ord. 18168 §4; April 28, 2003).

12.20.040 Application for Permit.

Any person desiring to plant, remove, or destroy any street tree in or upon any street, parkway, sidewalk space, or other public way within the city shall first make a written application to the Director so to do, upon forms furnished by the city. Such application shall set forth the name and address of the applicant, the name and address of the person, firm, or corporation doing the work, and such other information as the Director may require. At the time of making such application, the applicant shall agree in writing to save the city harmless and to protect the city and the public at all times in connection with such work under such permit, and to do such work in conformance with specifications set forth by the city. Also at the time of making such application, the applicant shall furnish the Director with the written consent to

the issuance of such permit from the owner of the property abutting the public property upon which such work is proposed to be done. (Ord. 18168 §5; April 28, 2003; P.C. §12.20.020; Ord. 10129 §4; March 22, 1971; Ord. 3489 §30-602, as amended by Ord. 7154; May 2, 1960).

12.20.050 Issuance of Permit; Requirements Pertaining to Planting, Maintaining, Removal, and Destruction.

After inspection of the location in question, if in his opinion it is desirable that such tree be planted, removed, or destroyed, the Director shall issue a permit therefor. Such permit shall set forth the name and address of the owner of the property abutting the public property upon which such work is to be done; the name and address of the person who will perform such work; and the location at which such work will be performed. The permittee shall furnish any such street tree to be planted. After planting, such street tree shall be and remain the property of the city, and subject to the provisions of this chapter. The cost of any such street tree and the cost of all such permitted planting, removing, and destroying shall be and remain the permittee's. Such permit shall be subject to the following conditions, which shall be made a part of said permit, and failure to comply therewith shall constitute a violation of this chapter:

(a) Any street tree to be planted shall be planted at the location designated by the Director. All trees when planted shall be not less than one inch in diameter at one foot above the ground surface. No whips shall be planted;

(b) When a street tree is being removed or destroyed, the stump shall also be removed. All removed trees, including limbs and debris therefrom, shall be removed from the street, parkway, sidewalk space, or other public way within forty-eight hours after being cut, and the ground shall be raked clean of all chips, branches, and debris;

(c) When a street tree is being felled, it shall be felled away from the roadway or parallel with the roadway, when possible, and the sidewalk and street shall be guarded as to protect pedestrians and vehicles thereon;

(d) All damage to curbs, sidewalks, and other public property occurring in the performance of any such work shall be promptly and properly repaired at the permittee's expense. (Ord. 18168 §6; April 28, 2003; Ord. 16951 §90; March 11, 1996; P.C. §12.20.030; Ord. 10129 §5; March 22, 1971; Ord. 3489 §30-603, as amended by Ord. 5893; October 25, 1954).

12.20.060 Work Ordered or Done by the City.

No permit shall be required for any street tree, shrub, or ornamental landscape planting, removing, or destroying ordered or done by the city; however, all such work shall be done in conformance with the requirements of subparagraphs (a), (b), (c), and (d) of Section 12.20.050 of this chapter. Further, the city may trim all trees in or upon any street, parkway, sidewalk space, or other public way so that there is a clearance of ten feet over sidewalks and fourteen feet over the portion of public streets and alleys used for vehicular traffic. (Ord. 18168 §7; April 28, 2003; Ord. 16111 §1; May 11, 1992; P.C. §12.20.035; Ord. 11310 §1; March 24, 1975; Ord. 10129 §6; March 22, 1971).

12.20.070 Height and Spread Limitations for Landscape Plantings Within the Sidewalk Space; Special Assessment for Failure to Maintain.

Shrubs, perennial and annual flowering plants, ornamental grasses, and ground covers planted within the sidewalk space, or abutting a sidewalk, shall be maintained so that they do not extend over curbs, sidewalks, driveways, or alleys. Such landscape plants located between the curb and sidewalk, or within twelve feet of the curb if no sidewalk exists, shall be maintained to have a maximum height of no more than thirty inches above the height of the adjoining curb. Landscape plants located behind the sidewalk, or beyond twelve feet from the curb if no sidewalk exists, shall be maintained to have a maximum height in conformance with the Lincoln Municipal Code. Upon the failure, neglect, or refusal of an owner of the property abutting the sidewalk space upon which landscape plants have been planted to maintain such plants in accordance with the requirements of this section, after at least five days' notice, by publication at least once in a daily newspaper of general circulation in the City of Lincoln and by postage prepaid certified mail has been given such person of such failure, neglect, or refusal, the city may treat such plants or growth thereof as weeds or worthless vegetation and forthwith trim, remove, or destroy the same. The Director shall annually prepare and file with the City Clerk a report of all such work, together with the cost thereof, done by his/her Department during the preceding twelve months. Upon receipt of such report, the City Clerk shall present it to the City Council for consideration. The City Council shall fix a time, date, and place for hearing said report, and any protests or objections thereto. The City Clerk shall cause notice of said hearing to be published once in a newspaper of general circulation in the city, and served by certified mail, postage prepaid, addressed to the owner of such abutting property as his/her name and address appears on the last equalized assessment roll of Lancaster County, Nebraska, if such so appears, or as known to the City Clerk. Such notice shall be given at least ten days prior to the date set for hearing and shall specify the day, hour, and place the Council will hear and pass upon the Director's report, together with any objection or protests which may be made thereto, and assess such abutting property with such cost. Such assessment shall be certified by the City Clerk to the appropriate taxing official for the city, and shall be collected in the manner provided by law for the collection of general real estate taxes. Such assessment shall be a lien upon such property from the date of assessment, shall become delinquent December 1 after the date of assessment, and shall draw interest from said date until paid at the same rate as provided by law for delinquent general real estate taxes. (Ord. 18168 §8; April 28, 2003: P.C. §12.20.040: Ord. 13156 §1; June 22, 1981: Ord. 10129 §7; March 22, 1971: Ord. 9079 §2; August 22, 1966: Ord. 7730 §1; May 7, 1962: Ord. 3489 §30-605, as amended by Ord. 5893; October 25, 1954).